

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Intelsat North America LLC,
PanAmSat Licensee Corp., and
PanAmSat H-2 Licensee Corp.
Annual Satellite Status Report

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FILED/ACCEPTED

JUL - 2 2007

Federal Communications Commission
Office of the Secretary

REQUEST FOR CONFIDENTIAL TREATMENT

Intelsat North America LLC, PanAmSat Licensee Corp. and PanAmSat H-2 Licensee Corp. (collectively, "Intelsat") respectfully request that, pursuant to Sections 0.457 and 0.459 of the Commission's Rules, the Commission withhold from public inspection and accord confidential treatment to portions of the enclosed Annual Satellite Status Report ("Report").¹ Specifically, Intelsat requests confidential treatment of Part 2 of the Report, which contains unscheduled transponder outage information, Part 3, which contains transponder utilization tables for all in-orbit satellites, and Part 4, which contains information on transponders not available for service or transponders not performing within specifications. Parts 2, 3 and 4 of the Report contain commercially sensitive information that falls within Exemption 4 of the Freedom of Information Act ("FOIA").²

Exemption 4 allows parties to withhold from public information "trade secrets and commercial or financial information obtained from any person and privileged or confidential-categories of materials not routinely available for public inspection."³ Applying Exemption 4,

¹ 47 C.F.R. §§ 0.457, 0.459.

² See 5 U.S.C. § 552(b)(4); 47 C.F.R. § 0.457(d).

³ *Id.*

the courts have stated that commercial or financial information is confidential if its disclosure will have either of the following effects: (1) impairs the government's ability to obtain necessary information in the future; or (2) causes substantial harm to the competitive position of the person from whom the information was obtained.⁴ Fixed satellite service space station operators routinely request confidential treatment of transponder outage and utilization information contained in their Reports and the Commission has withheld such information from public inspection.⁵

Section 0.457(d)(2) of the Commission's rules allows persons submitting materials that they wish withheld from public inspection in accordance with Section 552(b)(4) to file a request for non-disclosure.⁶ The requirements governing such requests are set forth in Section 0.459(b). In accordance with the specifications delineated in that rule, Intelsat hereby submits the following:

1. Identification of Specific Information for Which Confidential Treatment is Sought (Section 0.459(b)(1))

Intelsat seeks confidential treatment of the information contained in Parts 2, 3 and 4 of its Report. Part 2 of the Report contains information about any unscheduled transponder outages lasting 30 minutes or more. Part 3 of the Report contains transponder utilization information for all of Intelsat's in-orbit satellites. Part 4 of the Report contains information on transponders not available for service or not operating within parameters. These parts contain commercially sensitive information that falls within Exemption 4 of FOIA.

⁴ See *National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) (footnote omitted); see also *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879-80 (D.C. Cir. 1992), *cert. denied*, 507 U.S. 984 (1993).

⁵ See, e.g., *Loral Space & Communications Ltd. Annual Status Report* (filed June 30, 2000); *PanAmSat Corporation Annual Status Report* (filed July 2, 2001).

⁶ 47 C.F.R. § 0.457(d)(2).

2. Description of Circumstances Giving Rise to the Submission (Section 0.459(b)(2))

Intelsat is filing the instant Report pursuant to Section 25.210(l)⁷, which requires all fixed satellite service space station operators to file on June 30 of each year a report with the International Bureau containing: (1) the status of satellite construction and anticipated launch dates; (2) a listing of any non-scheduled transponder outages lasting 30 minutes or more; and (3) a detailed description of transponder utilization of each in-orbit satellite.

3. Explanation of the Degree to Which the Information is Commercial or Financial, or Contains a Trade Secret or is Privileged (Section 0.459(b)(3))

Parts 2, 3 and 4 of the Report contain sensitive commercial information that competitors could use to Intelsat's disadvantage. The courts have given the terms "commercial" and "financial," as used in Section 552(b)(4), their ordinary meanings.⁸ The Commission has broadly defined commercial information, stating that "[c]ommercial" is broader than information regarding basic commercial operations, such as sales and profits; it includes information about work performed for the purpose of conducting a business's commercial operations."⁹ The transponder utilization table contains detailed information about leased transponder capacity and the amount of transponder capacity available for sale aboard each satellite. This is sales information, clearly within the definition of "commercial." Competitors could use this information, as well as information about any unscheduled transponder outages and malfunctioning transponders, to enhance their market position at Intelsat's expense.

⁷ 47 C.F.R. § 25.210(l).

⁸ *See Bd. of Trade v. Commodity Futures Trading Comm'n*, 627 F.2d 392, 403 & n.78 (D.C. Cir. 1980)

⁹ *Southern Company Request for Waiver of Section 90.629 of the Commission's Rules*, 14 FCC Rcd 1851, 1860 (1998) (Memorandum Opinion and Order) (citing *Public Citizen Health Research group v. FDA*, 704 F.2d 1280, 1290 (D.C. Cir. 1983)).

Moreover, the transponder information meets both definitions of “confidential.” First, a decision to not treat this information as confidential could affect the Commission’s ability to obtain necessary information in the future. Although this information is required by Section 25.210(l), space station operators may be reluctant to provide such detailed transponder information if it is not accorded confidential treatment. Second, as explained in detail in Section 5, release of this transponder information could result in substantial competitive harm.

4. Explanation of the Degree to Which the Information Concerns a Service that is Subject to Competition (Section 0.459(b)(4))

Substantial competition exists in the telecommunications satellite industry. Other players in the geostationary, fixed satellite service market include SES Americom, Eutelsat and Telesat, among others. The presence of these competitors makes imperative the confidential treatment of sensitive commercial information.

5. Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm (Section 0.459(b)(5))

As explained briefly in Section 3, release of the transponder utilization and transponder outage and malfunction reports could have a significant impact on Intelsat’s commercial operations. If competitors or customers had access to this information, it could negatively affect Intelsat’s future negotiations with potential and existing customers. Specifically, competitors and customers could use the transponder capacity and outage and malfunction information to negotiate more favorable leasing terms. In addition, competitors could use this information to develop market and business strategies to negatively affect Intelsat’s future business plans.

6. Identification of Any Measures Taken to Prevent Unauthorized Disclosure (Section 0.459(b)(6))

Intelsat limits access to the transponder capacity and outage and malfunction information to necessary personnel only. Also, Intelsat takes every precaution to ensure that this information is not released to the general public.

7. Identification of Whether the Information is Available to the Public and the Extent of Any Previous Disclosure of the Information to Third Parties (Section 0.459(b)(7))

Intelsat has not made the transponder utilization and outage and malfunction information available to the public and has not disclosed the information to any parties other than the FCC.

8. Justification of Period During Which the Submitting Party Asserts that the Material Should Not be Available for Public Disclosure (Section 0.459(b)(8))

Intelsat respectfully requests that the Commission withhold the transponder utilization and outage and malfunction information from public inspection for fifteen years. The Commission generally licenses satellites for a fifteen-year term and this information remains commercially sensitive until a satellite is decommissioned.

Respectfully submitted,

Intelsat North America LLC,
PanAmSat Licensee Corp, and
PanAmSat H-2 Licensee Corp.

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Dated: July 2, 2007

PUBLIC VERSION

**INTELSAT NORTH AMERICA LLC, PANAMSAT LICENSEE CORP. AND
PANAMSAT H-2 LICENSEE CORP.**

ANNUAL SATELLITE STATUS REPORT

TO THE

FEDERAL COMMUNICATIONS COMMISSION

(Data as of May 31, 2007)

June 30, 2007

**INTELSAT NORTH AMERICA LLC, PANAMSAT LICENSEE CORP. AND
PANAMSAT H-2 LICENSEE CORP.**

**Part 1
Status of Satellite Construction**

Galaxy 18

The Galaxy 18 spacecraft is a C/Ku-Band satellite with 24 C-Band and 24 Ku-Band channels under construction by Space Systems/Loral. The contractor has successfully completed construction of the spacecraft and the Pre Storage Review was held on January 17, 2007.

Following the Pre Storage Review, the spacecraft was put into storage at the Space Systems/Loral facility due to a delay in the availability of the Sea Launch Vehicle. The delay of the availability of the Sea Launch Vehicle was a direct consequence of the launch failure of the NSS8 satellite in late January 2007.

Assuming a return to flight of the Sea Launch Vehicle in October 2007, the launch of the Galaxy 18 spacecraft is expected in the first quarter of 2008.

Galaxy 19 (formerly Intelsat Americas 9)

The Galaxy 19 spacecraft is a C/Ku-Band satellite with 24 C-Band and 28 Ku-Band channels under construction by Space Systems/Loral. The contractor has successfully completed construction of the spacecraft and the Pre Storage Review was held on April 25, 2007.

Following the Pre Storage Review, the spacecraft was put into storage at the Space Systems/Loral facility due to a delay in the availability of the Sea Launch Vehicle. The delay of the availability of the Sea Launch Vehicle was a direct consequence of the launch failure of the NSS8 satellite in late January 2007.

Assuming a return to flight of the Sea Launch Vehicle in October 2007, the launch of the Galaxy 19 spacecraft is expected in the third quarter of 2008.

Intelsat 11 (formerly PAS-11)

The Intelsat 11 spacecraft is a C/Ku-Band satellite with 12 C-Band and 18 Ku-Band channels under construction by Orbital Sciences Corporation. The contractor has successfully completed assembly of the spacecraft as well as all environmental tests. The spacecraft is presently undergoing final integrated system tests leading to a ready-to-ship date of August 2007.

In March 2007, Intelsat entered into a contract with Arianespace to launch the Intelsat 11 spacecraft on board an Ariane 5 Launch Vehicle in September 2007. Orbital Sciences Corporation intends to ship the spacecraft to the launch base in August 2007.

Horizons 2

The Horizons 2 spacecraft is a Ku-Band satellite with 20 Ku-Band channels under construction by Orbital Sciences Corporation. The contractor has successfully completed assembly of the spacecraft as well as all mechanical environmental tests. The spacecraft is presently undergoing thermal vacuum system tests, to be followed by final integrated system tests leading to a ready-to-ship date of August 2007.

In March 2007, Intelsat entered into a contract with Arianespace to launch the Horizons 2 spacecraft on board an Ariane 5 Launch Vehicle in September 2007. Orbital Sciences Corporation intends to ship the spacecraft to the launch base in August 2007.

Intelsat 14

In January 2007, Intelsat contracted with Space Systems/Loral for the construction of the Intelsat 14 spacecraft. This is a C/Ku-Band satellite with 40 C-Band and 22 Ku-Band channels.

The contractor successfully completed the System Preliminary Design Review in May 2007. The contractor expects to start integration of the communication module in early 2008 and reference performance tests in mid 2008.

The satellite is expected to be completed in the second quarter of 2009, followed by a launch in the second or third quarter of 2009.

Intelsat 15

In March 2007, Intelsat contracted with Orbital Sciences Corporation for the construction of the Intelsat 15 spacecraft. This is a Ku-Band satellite with 22 Ku-Band channels.

The contractor plans to hold the System Preliminary Design Review in August 2007. Key milestones include: System Critical Design Review (early 2008), start spacecraft integration (mid 2008) and complete environmental tests in December 2008.

The satellite is expected to be completed in the first quarter of 2009, followed by a launch in the second quarter of 2009.

Intelsat 16

In February 2007, Intelsat contracted with Orbital Sciences Corporation for the construction of the Intelsat 16 spacecraft. This is an all Ku-band spacecraft that would replace the Intelsat 11 spacecraft (Ku-Band payload only) in the case of a failure of the IS 11 spacecraft during launch or early commissioning.

The contractor successfully held the System Design Review in May 2007. Completion of the satellite is foreseen for the first quarter of 2008, with a launch in the second quarter of that year, if required.

**INTELSAT NORTH AMERICA LLC, PANAMSAT LICENSEE CORP. AND
PANAMSAT H-2 LICENSEE CORP.**

**Part 2
Non-Scheduled Transponder Outages**

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**INTELSAT NORTH AMERICA LLC, PANAMSAT
LICENSEE CORP. AND
PANAMSAT H 2 LICENSEE CORP.**

**Part 3
Transponder Utilization**

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Business Proprietary Information Deleted

**INTELSAT NORTH AMERICA LLC, PANAMSAT LICENSEE CORP. AND
PANAMSAT H-2 LICENSEE CORP.**

**Part 4
Transponders Not Available for Service
or
Not Performing to Specification**

PUBLIC VERSION

Business Proprietary Information Deleted